IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.15149 of 2004

Between:

Ch.Ramalingaiah, S/o.Galaiah, 27 years,
R/o. Mutukula Village, Pullalacheruvu Mandal, Prakasam District.

...PETITIONER

AND

1. The Joint Collector, Ongole, Prakasam District.
2. The Revenue Divisional Officer, Markapuram, Prakasam District.
3. The Mandal Revenue Officer, Pullalacheruvu Mandal, Prakasam District.
4. B.Rangaiah, S/o.Suraiah, 34 years, R/o.Mutukula Village, Pullalacheruvu Mandal, Prakasam District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Certiorari, to call for the records pertaining to the impugned proceedings D.Dis/2429/2004 dated 19.08.2004 on the file of the 1st respondent and quash the same as illegal, arbitrary, unjust, and to consequently set aside the order of the 2nd respondent passed in R.C.H. 1084/2004 dated 17.07.2004.

Counsel for the Petitioner: K.ARUNA

Counsel for the Respondent Nos.1 & 2: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.3: MR.T.S.RAYALU

The Court at the admission stage made the following:

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THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.15149 of 2004

ORDER:

The petitioner is the authorized dealer of the Fair Price Shop at Mutukula Village, Pullalacheruvu Mandal in Prakasam District. His authorization was suspended by the Revenue Divisional Officer (RDO) by an order dated 17.07.2004. Against the said order, the petitioner preferred an appeal before the Joint Collector, the first respondent herein and the same was disposed of on 19.08.2004 directing the RDO to complete the enquiry within a period of two weeks. The said order is under challenge in this writ petition.

Heard the learned Counsel for both parties and perused the material on record.

The learned Counsel for the petitioner contends that all the allegations made against the petitioner are false and baseless, at any rate since the order of suspension is in the nature of a final order by way of substantive punishment and the same having been passed without notice to the petitioner is in violation of the principles of natural justice and liable to be set aside. The learned Counsel contends that the first respondent failed to take into consideration the said aspect and mechanically disposed of the Appeal with a direction to the Revenue Divisional Officer to complete the enquiry.

Though no counter-affidavit is filed, the learned Government Pleader, under instructions, submits that as a matter of fact a show-cause notice was issued, but the petitioner refused to receive the same. He further submits that all the allegations made against the petitioner are grave in nature and therefore, the order of suspension has been rightly passed pending enquiry.

On behalf of the 4th respondent - temporary dealer, a counter-affidavit has been filed stating that by virtue of the interim orders passed by the first respondent the petitioner has been distributing the commodities.

It is to be noted that during the pendency of the Appeal before the first respondent, the order of suspension dated 17-07-2004 passed by the 2nd respondent was stayed and thus the petitioner is being continued. A perusal of the impugned order dated 19-08-2004 shows that both the Appellant and the respondent were not present before the first respondent and the Appeal was disposed of merely on the ground that the order of suspension was pending enquiry before the Revenue Divisional Officer and therefore does not warrant any interference. The first respondent did not examine the question whether the suspension of authorization is warranted till the completion of enquiry in the facts and circumstances of the case. At any rate, the first respondent having directed the Revenue Divisional Officer to complete the enquiry expeditiously, ought to have allowed the petitioner to distribute the commodities till the completion of enquiry.

Accordingly, the Writ Petition is disposed of with a direction to the 2nd respondent RDO to complete the enquiry as expeditiously as possible at any rate within two weeks from the date of receipt of this order after affording due opportunity to all the parties concerned and appropriate orders be passed in accordance with law. Till such orders are passed, the order of suspension dated 17-07-2004 shall not be given effect to. The impugned order dated 19-08-2004 shall stand modified

accordingly. No costs.

The Writ Petition is accordingly disposed of. No costs.

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(G.ROHINI, J)

11th October 2004

Note: CC by one week

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Joint Collector, Ongole, Prakasam District.

2. The Revenue Divisional Officer, Markapuram, Prakasam District.

3. The Mandal Revenue Officer, Pullalacheruvu Mandal, Prakasam District.

4. Two CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.